HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 1091 (M/S) year 2003

Jai Prakash Bhatt S/o Sri Mahanand Bhatt

Vs.

State of Uttaranchal and others

Approved for reporting.

~~Not approved for reporting~~

Decided on 15.11.2003

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1091 (M/S) 2003

Jai Prakash Bhatt
S/o Sri Mahanand Bhatt,
R/o Sukhindhang, Champawat,
District Champawat. ….Petitioner

Vs

1. State of Uttaranchal through
Education Secretary, Uttaranchal
Dehradun.
2. Sachiv, Uttaranchal Vidhyalaya
Shiksha Evam Pariksha Parishad
Ramnagar District Nainital.
3. Principal, Govt. Girls Intermediate
College, Sukhidhang, Champawat,
District Champwat. ..Respondents

Counsel for the petitioner Dayanand Singh.

Dated:- 15-11-2003

Hon'ble Rajesh Tandon

Admit. Respondents waive service. Both the parties agreed that the matter maybe decide finally.

Heard counsels for both the parties.

By the present Writ Petition the petitioner has prayed for the revaluation of the answer sheets.

Revaluation cannot be permitted in view of the judgment of the Apex Court in Maharashtra State Board of Secondary and Higher Education Vs. Paritosh Bhupesh Kumar Seth AIR 1984 SC. 1543.

Similar view has been taken by the in Writ Petition No. 633(M/S)/2003 Km. Kaumudi Vs. Uttaranchal Shiksha Evam Parishad and others.

However, in view of rule 21 of chapter XII of the U.P. Education code, the petitioner is at liberty to avail scrutiny of answer sheets. Rule 21 is quoted below:-

"Answer sheets of those candidates who have failed in only one subject by not more than 5 percent marks fixed for that subject, shall be scrutinized without any application or fees. Other examines who want to get their answer sheets scrutinized may get that done under following rules:-

(a)Any examinee who appeared in the examination conducted By the Board, may apply for rechecking of his marks of subjects by scrutiny

(b) All such applications must be accompanied by a treasury challan of Rs 20 per subject showing that the prescribed fees have been given. In case of candidates sending the application form from outside Uttar Pradesh this fees should be sent to the office of the Secretary through crossed postal order or crossed bank draft payable at State Bank of India, Allahabad Branch.

(c)All such applications must be given within a period of thirty days from the date of declaration of result.

(d) (Rescinded).

(e) Results of all cases applied for scrutiny and all cases of self-scrutiny, where they affect the result D (marks or class or failed or Passed), shall be informed to other concerned persons and the candidates after scrutiny is closed. In other cases no information will be furnished and no correspondence will be made. Provided also that the result of scrutiny, where the fees has been paid by the candidate, shall be informed in all event whether any change has been effected or not.

(f) Normally, in the work of scrutiny rechecking of answer books of the examinees is not inclusive. In that it is seen whether any mistake has occurred in totaling of marks in separate questions, in bringing forward that or not awarding of marks to any question or its part.

In the case of Mobeen Ahmad Ansari Vs. State of U.P. and others 1999 (1) U.P.B.E.C. Cases page 603 it has been pointed out that the Board does not have any rule for evaluation of the marks but with a view to create transparency there is need for provision to evaluate the marks. The relevant portion of the judgment is as under:-

"It is a matter of great concern that in the recent years there is consideration influx of such writ-petitions in this Court has increased. Earlier the Board of High School and Intermediate Education had inspired so much confidence that seldom writ petition were filed. Filing of writ petition on such a large scale before this court indicate that there is considerable dissatisfaction among the students and their parents which requires introspection by the Board Authorities as well. Although

this Court seldom interfere in the revaluation of the marks. The board also does not have any rule for revaluation of the marks. But with a view to have greater accountability and transparency there is a need for framing some certain rules to rectify the error, mistakes or defection calculation of the marks."

The Counsel for the petitioner has also referred the judgment of Vaibhave Pandey V. Board of High School and Intermediate Education (1998) 2 U.P.L.B.E.C. 1501 wherein direction has been given for checking the answer books in presence of the guardian of the petitioner. The observations in the case of Vaibhav Pandey is quoted below:-

"This writ petition is finally disposed of with the direction that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner being looked or examined by respondent No. 2, the petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476."

In view of the aforesaid facts and circumstances liberty is given to the Petitioner to apply for scrutiny of his answer sheets in accordance with the Rules framed under the U.P. Education Code.

If such an application is field the respondents are directed to dispose of the same within a period of 3 weeks from the date of the filing of the certified copy of the order.

Subject to the aforesaid observations as well as the observations contained in writ petition no.633 (M/S) Km. Kaumudi Vs. Uttaranchal Shiksha Evam Parishad and others, the writ petition is disposed of. There will be no order as to costs.

(**Rajesh Tandon, J.)**

Dated:- 15-11-2003

Mohit